

MINUTES
Troutdale City Council – Special Meeting
Troutdale City Hall – Council Chambers
104 SE Kibling Avenue
Troutdale, OR 97060-2099

Tuesday, October 7, 2008

1. ROLL CALL

Mayor Thalhofer called the meeting to order at 7:01pm.

PRESENT: Mayor Thalhofer, Councilor Kight, Councilor Ripma, Councilor Thomas; Councilor Canfield, Councilor Kyle and Councilor Daoust.

ABSENT: None.

STAFF: John Anderson, City Administrator; Rich Faith, Community Development Director; Debbie Stickney, City Recorder; David Ross, City Attorney; Elizabeth McCallum, Senior Planner, and Travis Hultin, Chief Engineer.

GUESTS: See Attached.

2. Public Hearing - Appeal: Appeal of the Planning Commission's decision to approve a Conditional Use Modification for the Reynolds Arthur Academy, a Charter School, to allow the addition of Grade 6 to existing Grades K – 5 (File No. 08-033).

David Ross, City Attorney, stated the only item on tonight's meeting agenda is being processed as an appeal of a decision rendered under a Type III quasi-judicial land use proceeding in accordance with provisions in the Troutdale Development Code. A staff report has been prepared for this matter and has been made available at least seven days before this hearing. The staff report identifies the approval criteria that apply and analyzes those criteria. An appeal of a decision rendered under a Type III procedure is conducted as a de novo hearing, as more fully described in the staff report. The procedure that the City will utilize for this hearing tonight is as follows: 1) staff will present a staff report; 2) the Mayor will open the public hearing; 3) the applicant will be given an opportunity to present information and respond to City Council's questions; 4) the appellant will be given an opportunity to present information and respond to City Council's questions; 5) anyone who wishes to testify will be given the opportunity to do so; 6) the appellant may present rebuttal testimony if necessary; 7) after the testimony has been submitted, Council will discuss the proposal.

David Ross stated if you are going to testify make sure that you have signed in and give your name at the beginning of your testimony so that the City has it in the record. If you are going

to submit exhibits such as letters, reports, or pictures, please identify the exhibit for the record and confirm that you want it included in the record before you distribute it to the Mayor and Councilors. Your testimony and any exhibits should address the applicable approval criteria. If you believe that other criteria apply in addition to those that are addressed in Exhibit I of the staff report, you must identify those criteria and explain why you believe that they apply to the proposal that is being considered. The Mayor may reasonably limit oral presentations in length or content depending upon time constraints. Any party may submit written materials of any length while the public record is open. After all of the testimony has been submitted the Mayor will close the public hearing. If the City Council makes a decision with which you disagree, any issue you want to raise on appeal has to have been raised for the City Council's consideration. Failure to raise an issue on the record with statements or evidence that are sufficient to afford the City Council and all parties the opportunity to respond to the issue will preclude an appeal of that issue to the Land Use Board of Appeals, as well as an action in Circuit Court for damages. That summarizes tonight's procedure. Before the Mayor begins with the staff presentation, do any City Council members or the Mayor need to disclose any conflicts of interest, ex-parte contacts or bias?

Councilor Thomas stated I have two grandchildren that attend the Author Academy. I drop them off every morning for school. I don't know that it would impact my ability to make a decision, but I will leave that up to the Council as to whether or not they want me to step down.

Council did not object to Councilor Thomas participating in the appeal hearing.

Councilor Kight stated I contacted Elizabeth McCallum today, I don't know if that qualifies as an ex-parte contact or not.

Mayor Thalhoffer stated that is not a problem.

Elizabeth McCallum, Senior Planner, showed the Council a PowerPoint Presentation (copy included in the record).

Elizabeth McCallum stated this is an appeal of the Planning Commission's (PC) decision to approve a modification to a conditional use for the Reynolds Arthur Academy Charter School to include Grade 6. The appeal has been brought by Multnomah County Transportation Planners. It is not an appeal of the inclusion of Grade 6; it is an appeal of specific conditions that are in opposition to our intergovernmental agreement with Multnomah County pertaining to roads. The school is located on SW 21st Street on the west side of Troutdale Road. The school is on property shared with a church. Slides 3 through 8 are provided to give you some familiarity with the streets. Slide 3 is SW 21st Street westbound as you would enter from Troutdale Road. Slide 4 is Troutdale Road as a pedestrian would see it looking north on Troutdale Road from the intersection at 21st Street. Slide 5 is Troutdale Road looking south from the intersection as a pedestrian would see it (21st is on your right, that is the entrance). Slide 6 is a photo taken this morning during the morning drop-off time from 21st Street. You will see the traffic coming in from 21st and turning into the driveway to the school and operating in the clockwise configuration that they have proposed to keep traffic moving. Slide

7 is another view showing the entrance to SW Sunrise Circle. Slide 8 shows the city car which is parked at the entrance to Sunrise Park. I spent some time there this morning (approximately ½ hour) during the drop-off time to observe traffic. This is about as congested as I saw the traffic. The photo is a snap shot in time, but this cleared in probably less than two seconds. Looking at the applicable criteria for modification of a conditional use we have to consider first, is it a conditional use in the zone, and yes it is. This came before us as a modification and the County Transportation is appealing the PC's decision. Appeals of the PC decisions come before the City Council as de novo hearings. **Summary of the Appeal:** The County has jurisdiction on SE Troutdale Road and the exercise of governmental powers relating to this road is a matter of County concern. Traffic impact findings and mitigation measures proposed in the applicant's traffic study to reduce or eliminate transportation impacts generated by the school do not adequately address the conditional use approval criteria of the Troutdale Development Code Chapter 6. The PC's Final Order does not comply with the City/County Intergovernmental Agreement (IGA) in that the Final Order did not incorporate the comments and conditions of the County as the City is contractually obligated to do. The PC's findings being appealed specifically are the following (these are summarized and are not direct quotes from the County): The County asserts that conditional use criteria C and F are not adequately addressed in the PC's decision. Criteria C for conditional use is that the proposed use of the site is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use. Criteria F is, the proposed use will not result in use of the land for any purpose which may create, or cause to be created, any public nuisance including, but not limited to air, land, or water degradation, noise, glare, heat, vibration, or other considerations which may be injurious to public health, safety and welfare. The applicant's study finds that there are existing traffic problems and the addition of a grade will increase the problems. That is a paraphrase of a statement from the County's appeal. The County does not support 2 of the 3 mitigation measures proposed in the applicant's transportation plan. Those mitigation plans were represented by Conditions 3 and 7 of the PC's Final Order, which is Exhibit B, page 5 and 6. Condition 3, as adopted by the PC reads, "The westerly shoulder of SE Troutdale Road, 300 feet north of SW 21st Street, may be used as a vehicle queuing area as suggested in the traffic study (applicant's traffic study). The County opposes this decision and the County has requested a condition to prohibit queuing on Troutdale Road. The County's response to this queuing issue is that queuing creates an unsafe potential for pedestrian/bicycle vehicle conflict. The County staff made its objections known in its memorandum to the City and in direct response to the PC's questions at the hearing. The County concerns listed are: safety/user conflicts; existing traffic patterns not addressed in the traffic study; weaknesses of traffic management plan; and future SE Troutdale Road Improvements. Condition #7 that is specific to the appeal reads, "It shall be expressed to the parents and staff that a right turn ingress from Troutdale Road to SW 21st Street and a right-turn egress to Troutdale Road from SW 21st Street is preferred. The County's objection to this condition is that such a condition would promote u-turns on Troutdale Road; it would create additional traffic on residential streets to the south of SW 21st Street; and congestion should be mitigated on the local street first, then if necessary, managed through mitigation on the regional road system. I have summarized the County's comments. The applicable Comprehensive Land Use Plan Goal that would go along with these issues raised is from Goal 12 – Transportation / Policy 8: Design of the City's regional routes (throughways,

boulevards, streets, or urban roads) shall be in accordance with Oregon Department of Transportation and Multnomah County standards. While this request is not designing a new road that is under the County's administration, it is using a road that is under the County's administration, and so the County IGA must be respected in accordance with that agreement (Troutdale and the County agree that the County standards shall apply to County roads within Troutdale and Troutdale will incorporate the County comments in the Conditions of Approval or other applicable portion of the land use permit). The Planning Commission did not uphold the IGA in that the PC's approval specifically allows use of Troutdale Road in a manner not acceptable to Multnomah County Transportation's comments and conditions of approval. Under an appeal the Council has a number of options outlined by the Development Code which are: A) Affirm the PC's decision by adopting their Findings of Fact and Final Order; B) reverse the PC's decision and adopt a new Final Order with Findings of Fact to support the reversal; C) Modify in whole or in part the PC's decision and adopt a new Final Order with Findings of Fact to support the modification; D) remand the decision back to the PC and include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify it. Staff is recommending Option C because it expedites the matter. The applicant (John Liljegren for Arthur Academy) does not object to eliminating the queuing on Troutdale Road and does not object to removing the condition about the right-in/out. The applicant, in his response to you (letter dated September 26th under Exhibit C), has some questions and recommended changes to the PC's Conditions #2 and #4. In my memorandum to you I state that I didn't recommend any changes to those conditions. But in further review of that letter, and after my site visit this morning, I am now supporting Mr. Liljegren's requested changes. His first change pertains to Condition #2 of the PC's decision. Slide #20 shows the requested changes to Condition #2 (the words to be removed are in brackets and underlined; the words to be added are in italics). Condition #2, revised as requested by Mr. Liljegren would read, "To alleviate existing school peak hour congestion both in the morning and afternoon, Reynolds Arthur Academy shall implement staggered pick-up times into three groups in a manner that results in an equitable distribution of vehicles at the SE Troutdale Road and SW 21st Street intersection and consistent with current operations." I do not have any problem with this change after my observation of the morning drop off; however, I am not a traffic engineer. I found traffic to be moving quite easily. Mr. Liljegren also spoke to Condition #4. The adopted PC Condition #4 reads, "The proposed on-site one-way circulation plan shall be implemented during school hours with moveable on-site signage and traffic cones. Your proposed Draft Condition that is relating to that is Condition #5 which reads, "To lessen traffic impacts on SW 21st Street, the applicant shall incorporate the clockwise one-way circulation plan within the parking lot of 123 SW 21st Street as proposed." In reconsideration of Mr. Liljegren's request it made sense to me to look at Condition #5 because the one-way circulation is not intended to be all day long, it is just during traffic. A proposed revision to the draft that you have would be, "To lessen traffic impacts on SW 21st Street, the applicant shall incorporate the clockwise one-way circulation plan within the parking lot during morning drop-off and afternoon pick-up periods."

Councilor Daoust asked Ms. McCallum to summarize the modifications staff is proposing?

Elizabeth McCallum asked from the PC's approval?

Councilor Daoust replied yes.

Elizabeth McCallum replied the changes will reverse the PC's decision that said that queuing on Troutdale Road would be allowed. Under Exhibit B, Condition #3, that will be revised to state, "To comply with Multnomah County Transportation Standards, the westerly shoulder of SE Troutdale Road shall not be used as a vehicle queuing area as suggested in the traffic study." The other change is to Condition #7 (on page 6 of the PC's Final Order), that is completely removed because there will be no conditions pertaining to right-turn only.

Councilor Daoust stated that is two changes. Is there a modification to draft Condition #5?

Elizabeth McCallum replied yes. That was a modification requested by John Liljegren. It does not change any of the essence of the County's appeal.

Councilor Daoust stated and the fourth thing you mentioned was implementing the County's Findings of Fact.

Elizabeth McCallum stated in the adopted Final Order from the PC, the County's comments were in those findings. They are also included in the Findings that Council will adopt.

Councilor Daoust stated all of these things that you have brought up are in our recommended Findings that we could adopt tonight. Is that correct?

Elizabeth McCallum replied yes, with these addendums that I have verbalized with respect to Condition #2 and #5. On page 9 of your draft Findings of Fact and Final Order are the Conditions of Approval. We are proposing some wording changes to Draft Condition #2 to accommodate the request from Arthur Academy that they not have an actual scheduled drop off time. That is one of the original conditions of the PC and it came out of a request from Multnomah County to stagger the start and stop time of the classrooms. In light of how quickly the morning drop off occurs, the applicant has requested that we not have a condition requiring staggered drop offs. That is the only change to Condition #2 as drafted for you. There is a change to Condition #5 as drafted for you so that the one-way circulation plan only is in effect during morning and afternoon, and not all day long. As it is written it sounds like the clockwise circulation plan in the parking lot would have to occur all day long. We don't have the same level of traffic issues all day long, only during the morning and afternoon drop off/pick-up.

Councilor Kight stated I am assuming that the applicant has seen the draft. Have they responded to that?

Elizabeth McCallum replied yes. They are prepared to speak to that.

Councilor Kight stated it is my understanding that cars do park on Troutdale Road. I am a little confused as to what the problem is as far as cars queuing and/or parking on Troutdale Road. I didn't realize that there was a prohibition on parking in that area.

Elizabeth McCallum stated I have been told by the County that they don't want the queuing on Troutdale Road. They are here this evening and they can explain this to you.

Councilor Kight stated the applicant doesn't want to have the staggered times, did I hear that correctly?

Elizabeth McCallum replied they have requested that the condition only require staggered pick-up in the afternoon. They indicate that is where the real problem is. Staggered drop-off in the morning is not necessary because there isn't the same problem with people stacking up waiting to drop off children.

Councilor Kight asked do they have staggered start times for the classrooms?

Elizabeth McCallum replied I understand that school starts at 8:30 for everyone.

Councilor Kight asked I am curious why they wouldn't have a problem with cars stacking up if they are dropping them off all at one time in order to have the kids there at 8:30?

Elizabeth McCallum replied the applicant did provide a follow-up letter that we have provided to you this evening. I also observed drop-off time this morning. I arrived at 8:15am and all but a few stragglers were there by 8:30am. In Mr. Liljegren's letter he said that they start dropping kids off at 8:00pm. The longest wait that I saw by anyone this morning to get into 21st Street or leaving from 21st onto Troutdale Road was maybe 3 or 4 seconds. It was very quick.

Councilor Kight asked would that be exacerbated by the fact that we are adding another classroom with an additional 25 students?

Elizabeth McCallum replied I will refer you to the applicant's letter from their engineer, Chris Christofferson. He states that the additional 12 new vehicles will not change the pattern that is there now.

Councilor Kight asked how does he narrow it down to 12 new vehicles when there will be 25 new students?

Elizabeth McCallum replied they have a methodology for calculating that. They are prepared to speak to that.

Councilor Ripma asked is the proposed new language to Condition #2 okay with the applicant?

Elizabeth McCallum replied this is the wording from the applicant.

Councilor Ripma asked do you have an idea about the County's position on these changes?

Elizabeth McCallum replied I have not had a conversation with the County about these changes. I did email them the request and they have all of the letters from the applicant. I don't have any follow-up comments from them.

Councilor Ripma stated I am not just asking about Condition #2, I am referring to the entire draft Findings of Fact and Final Order as you amended it. It seems to me that it is consistent with the County's wishes and I wonder if you agree.

Elizabeth McCallum replied I agree. We wrote it with the understanding that it would be consistent, but the County has not told me one way or the other.

Councilor Thomas stated with Condition #2 what is being done is you are taking off the staggered drop-off in the morning and leaving the staggered pick-up for the afternoon.

Elizabeth McCallum replied correct.

Councilor Thomas stated I have concerns about that.

Councilor Daoust asked when you say remove the right-in/right-out condition, which condition is that?

Elizabeth McCallum replied that was a Planning Commission condition; it is not included in your draft conditions because it has been removed.

Mayor Thalhoffer opened the public hearing at 7:35pm and asked the applicant to come forward.

John Liljegren, Arthur Academy, stated we have no objection to removing the whole issue of queuing on Troutdale Road. We had put that in without any idea that this was a big issue with the County and only as, what I would call, a Plan C in case for some reason Plans A and B did not resolve the traffic concerns that were raised in the summer. Plans A and B which are the staggered times in the afternoon and the clockwise pattern of lining up cars in two side-by-side lines, in our view those have completely solved the issue in the afternoon. In the letter I submitted on September 26th I gave you specific counts that I personally observed. We have additional counts observed by Mr. Christofferson (traffic engineer) that show that under existing traffic we don't even fill up half of the available lines. We could fit up to 29 cars at one time in two lines. We don't even get to 14, except for maybe once in that 30-minute period of pick-up. Adding another 12 cars, which is based on our average of 2.2 students per car (this was based on a count that was done last year where we had 56 cars and 125 students) and spreading those 12 cars over a 30-minute pick-up time would have virtually no impact on the availability of space in the parking lot for cars to stack up. Our second point is we have no objection to the City's conditions as proposed to you with the amendments except for two minor clarifications. On slide 20 (proposed modification to draft Condition #2) the first sentence still refers to both morning and afternoon, I would ask the Council to revise that by deleting the word "both" on line one and on the second line delete the words "morning and". So it would read, "To alleviate existing school peak hour congestion in the afternoon..."

Number three, I did go out there this morning with my business manager and we did a count of the cars (October 7, 2008 E-mail with attached document titled *Morning Car Counts Reynolds Arthur Academy Tuesday, October 7, 2008* was provided to Council and is included in the packet) and my conclusion is that these counts support our contention that there is no problem in the morning. The reason is because people swing in and drop their kid(s) off and move on. It is very quick; they do not have to sit and wait in lines. At no time was there any significant backup of cars inside the parking lot. There is no backup onto 21st and there is no backup of cars waiting to get out onto Troutdale Road.

Councilor Canfield asked could you explain what you implemented that made the problem go away?

John Liljegren replied two things. One, we staggered the times. We have our parents coming in any one of three 10-minute periods in the afternoon. School is out at 2:55pm and kids that are not waiting in line are in the school or outside playing. Parents arrive in one of the three groups, either 2:55 to 3:05, 3:05 to 3:15 or 3:15 to 3:25. Number two, instead of coming in and turning right into the parking lot and proceeding counter clockwise, which allowed 17 cars to backup before they would spill over onto 21st, we changed the circulation. We set up orange cones and we have a person out on 21st Street (wearing a vest) with a stop sign to direct cars coming in and out making sure that there is no collision and if they see neighborhood cars they make sure those get priority. Vehicles come into the parking lot and turn left and circulate around the parking lot in two side-by-side lines and that allows up to 29 cars. We hardly ever have more than 8 or 10 at a time.

Councilor Canfield asked did you assign parents into these three groups? Is that something that they are required to do? How do you enforce that?

John Liljegren replied yes. We would enforce it if there was a problem with congestion.

Councilor Canfield asked when did your school year begin?

John Liljegren replied we run the same as the school district; we started right after Labor Day.

Councilor Canfield stated so there has been a few weeks to work out the bugs. Have you had cooperative parents so far?

John Liljegren replied yes.

Councilor Thomas asked when you talk about changing these staggered hours for drop off in the morning, having dealt with this for a couple of years, last year you couldn't hardly get to the school in the morning. I wonder if it is wise to remove the language for the staggered drop off in the morning.

John Liljegren replied we are not using it now and we are not having a problem as far as I can tell. We have expanded the time when parents can come and bring their kids, but it is not a mandated time when a parent has to be there. We are trying to avoid having to say that

1/3 of the folks need to be there between 8:00 and 8:10, and then another 1/3 between 8:10 and 8:20 and another 1/3 between 8:20 and 8:30. We don't want to have to do that; we don't think it is necessary because by telling folks that they can bring their kids between 8:00am and 8:30am they are spreading themselves out naturally and it isn't a problem.

Councilor Thomas stated I understand your answer, I am not sure that I think that it is a good idea to take that staggered time off. At least by having it there that option is available and so if somebody does come back and questions why we have staggered times in the morning at least we could point to that and say that we did ask them to do that.

John Liljegren stated but if we get to that point where there is a problem we are going to address it. I think we have shown good faith in responding to issues that are raised and I don't think we need a legal hammer pounded on us. We are very sensitive; we have heard a lot of neighborhood complaints and we have responded to those. We are certainly going to be first and foremost concerned about the safety of our own families. I think we have shown the ability to come up with solutions and implement solutions that solve the problem. If the problem resurrects and all of the parents decide to all arrive at 8:25 and we have a problem, we will on our own address that problem. If we have to implement some kind of staggered drop off we will. We just don't think there is a problem now.

Councilor Thomas stated it makes sense to me. I do have to commend you on what you have done so far.

Mayor Thalhoffer stated I would like make a slight deviation just to see where we are. Could the folks from Multnomah County come to the table. Are you folks pretty much together on this as far as the solutions here?

Ken Born, Transportation Planner with Multnomah County, stated we feel that the elimination of the queuing area along SE Troutdale Road is a great step in terms with complying with our originally requested conditions. We feel strongly that there should be a demand management solution that is at least tried in this case and if not tried then some sort of ongoing monitoring is needed in terms of that intersections ability to accommodate the school trends both in the AM and the PM. We still want a staggered school start and end time consistent with our originally requested condition. Our focus is on SE Troutdale Road but we are looking at what is going to make sense in terms of an inexpensive solution to this problem and if we can't get there then we need to start looking at system solutions in terms of improvements on SW 21st to provide enhanced turning opportunities or solutions on SE Troutdale Road in terms of providing either a left-turn pocket or a center turn lane.

Mayor Thalhoffer stated so to answer my question you are not together yet on this.

Ken Born replied we potentially accept the fact that school times may not be staggered, maybe more of an informal staggering time in the PM. That sounds like what the applicant wants as opposed to an AM/PM staggered start and stop time. Am I characterizing that correctly?

John Liljegren replied I am not sure I understand that.

Ken Born stated your request in terms of a staggered pick-up time was just for the PM pick-up only and you don't want to stagger the start times or end times of school. Essentially you are just staggering the pick-up time.

John Liljegren replied let me clarify. There is a difference between telling parents we want you to arrive in this 10-minute period of time and coming up with three different groups that we try and manage and dictate to the parents. We do that in the afternoon. We don't want to do that in the morning. We have allowed a wider timeframe for parents to drop off their kids. They don't all come at 8:29am for an 8:30 start time. They come anywhere between 8am and 8:30am. You may not have seen what I submitted today which are the counts from this morning. We show, in four 5-minute increments between 8:15am and 8:35am, how many cars entered the parking lot. Those numbers are 16, 17, 12 and 3. There was absolutely no backup at any point turning from Troutdale Road onto 21st, turning from 21st into the parking lot and exiting the parking lot. What I observed, on what I would consider a typical day, is that almost all of the cars leaving and turning onto 21st Street and going to Troutdale Road is that they were the first car at Troutdale Road. In other words there was no one stopped in front of them. Occasionally there might have been one car in front of them. I counted in that 20-minute period, a peak period of drop-off, twice when there were three cars and I timed it and in one case the third car by the time they arrived behind two cars parked in front of them, there was 12 seconds before he turned. In the second case the third car arrived and within 21 seconds he turned. I can not imagine, under any definition that traffic engineers would use, that this is a problem. That is why we are saying that it is not a problem, and there is no problem to be solved by a mandated staggered drop-off time in the morning.

Mayor Thalhofer stated the two sides are not together on that issue apparently.

Ken Born stated we are willing to come up with alternative solutions to at least monitor the situation. We need to get to a point where we can know for sure that there is not an ongoing safety problem along that roadway that is going to potentially impact these kids that are 4 to 12 years old.

John Liljegren stated we have spent several thousand dollars on the traffic engineer and we have done everything that we can to solve this problem. We don't think there is a problem and for the life of me I can't figure out what Multnomah County thinks we are supposed to do. He referred to the traffic demand management; I don't know what that entails. They haven't suggested anything other than the staggered drop off, but that is a solution in search of a problem. The problem does not exist. There is no evidence of a problem. Why would we have that conversation? You can tell that I am frustrated because here we are several months down the road dealing with a non-problem.

Councilor Kight stated I see your report that you submitted for the morning car counts. Have you seen any information from the County to counter your stats?

John Liljegren replied no.

Chris Christofferson stated we have done field observations that have matched what I had done in the analysis before the school year started. For the morning peak hour I had estimated that the worst delay was 18 seconds, and that is what John saw out there. If we had already implemented these mitigation measures and then come in for an application, there wouldn't be any talk about a condition for staggered start times in the morning because this intersection at 21st and Troutdale Road is operating very well. The parking lot is operating well. So the reactions are a reaction to what was happening last year. As far as needing a condition of approval to make sure that it never happens again, I think the situation would be different if it wasn't for last year. I think what we are trying to say is that we have solved the problem and if it wasn't for the problem, if we were to have come before you with an application for the 6th grade class there wouldn't be a condition for a staggered start time because the problem doesn't exist.

Mayor Thalhofer asked the appellant, Multnomah County, to come forward.

Ken Born, Multnomah County, stated the County Transportation program is notified anytime there is a land use action that is proposed adjacent to a county road or has a potential to impact a county road. In this instance the school fronts SW 21st which is a local street under the jurisdiction of Troutdale. 21st feeds into SE Troutdale Road which is a county road classified as a major collector. The County's authority over public roads designated as a county road is established in state law, ORS Chapter 368. In terms of notification, we did receive notice of this application in mid July. We did not provide any comments at that time. We had previously received notice in the past on the other proposals to both establish the school and expand the school and we didn't provide comments. City planning staff sent us an email on July 24th notifying us that at the original Planning Commission (PC) hearing there were a number of folks testifying that there are traffic problems at the intersection of SW 21st and SE Troutdale Road. We were under the understanding that the PC at that time required a traffic study, so we provided a memo which outlined the County's requirements for those types of traffic studies. The applicant responded through his traffic engineer with a traffic study on August 20th. Five days later the County provided comments on that study including some objections to the proposed mitigation measures. The objections that we provided were mainly focused on the safety of children, parents, neighbors, and other users of the regional roadway network. We also offered alternative mitigations and required conditions of approval. I was at the August 27th hearing, which again neighbors testified that there were traffic issues at that intersection. So that is certainly a County concern that we need to address. I think we have a responsibility to address concerns of the traveling public as well as the residents of the area. In terms of our appeal, we had underlined safety and other transportation related concerns that were not addressed with the PC decision. We also felt that the decision was carried out in a way that wasn't necessarily consistent with the IGA that we have with the City. I want to touch on the applicant's traffic study in terms of the key findings. According to the traffic study that was submitted to the County and the City from the applicant, there are queuing and circulation issues on SW 21st and at the intersection of SW 21st and SE Troutdale Road; these issues are attributable to school related vehicular traffic; traffic counts demonstrate low traffic volumes; traffic volumes are too low currently at that intersection to warrant traffic signals; and proposed revisions to on-site circulation will

definitely do some good. It sounds like that is being implemented now and it is having a positive affect. We certainly appreciate those efforts and we didn't object to any of those on-site circulation improvements that were proposed by the applicant. In terms of mitigation proposed by the applicant's traffic engineer, you have the on-site improvements, the proposal to use the westerly shoulder of SE Troutdale Road 300' north of the intersection as a vehicle queuing area, and they wanted to expand the pick-up time from 3pm to a period between 2:55 and 3:25. We had objections to the last two proposed mitigations. In terms of our safety concerns with the queuing area proposal, we were concerned about sight distance, particularly the four residential driveways and the most northerly driveway sight distance is going to be a factor if cars are stacked on SE Troutdale Road. There is a potential for conflicts with residential uses. There are four or five houses along SE Troutdale Road north of that intersection. There is a sidewalk in the path of the queuing area in addition to potential conflicts with bicyclists who may use that road to commute or for recreational purposes. The traffic management that was proposed was really unclear in terms of the number of people involved, whether these folks were going to be trained, how many hours they were going to be out there and whether the school was going to commit resources in the long-term to provide a traffic management solution along SE Troutdale Road. Further, the distance away from the school was just a concern, being over 600' away. It was unclear how this was going to work. Another key part of this in terms of the queuing area was that SE Troutdale Road is a major collector which the County standards call for a center turn land, two travel lanes, two bike lanes and no on-street parking. I know that a lot of questions came up at the PC hearing as to whether or not parking is currently allowed; yes it is. Will it be allowed in the future? No, the functional classification of that road won't allow for it. There will be bike lanes in that extra area along the shoulder and that would preclude the ability of the school to use that. I appreciate the fact that that has been withdrawn off of the table. In terms of this expanded pick-up time between 2:55 and 3:25, again it is good start and a good step in the right direction. But mitigations need to be predictable, implementable and enforceable. I think a fundamental portion of the conversation here is how we can get a commitment on the record for an equitable distribution of trips both in the morning and in the afternoon. The testimony provided by the neighbors did reflect that there were traffic issues both in the AM and PM and that is what we were reacting to. We did receive the new traffic counts this morning provided both by the applicant's traffic engineer as well as from the applicant himself. Some school staff went out there and did some traffic counts and it does look like things are improving. But we didn't have that until this morning and we have been reacting to the information that has been provided to us since mid July. We have some concerns that some of the City's own conditional use criteria hadn't been satisfied, including Chapter 6, Section 3.340C which requires the applicant and the city to make findings on the adequacy of the transportation systems affected by the use. As well as subsection F which requires the City and the applicant to answer the question, does the expanded use result in a situation that may be injurious to the public health safety and welfare. In terms of the alternative conditions that we requested and required in our August 25th memo, we said that SE Troutdale Road can't be used as a queuing area and with that solution or requirement, some sort of demand management solution. Essentially transportation planning is a fundamental part of that and is looking at ways to both reduce the demand of the use to improve a traffic situation as well as improve the system to accommodate the traffic that is generated by this use. We felt like the cheapest and easiest solution was for the school to

stagger its start and release times into three different groups. We recognize that this is a unique solution. I am not aware of other schools in the region currently being required to do this but the school is in a unique location on a dead end street and is located off of a collector road so the access to the site is not ideal. We do also recognize that brothers and sisters may be in different grades being dropped off at the same time and what do you do with those kids. That is a concern with us as well, so we do recognize the objections to that but we do feel that it can be worked out in a way that makes sense for everybody and that avoids having to look at some system improvements that could potentially be required if the situation continues. We did recognize the incorporation of our requested conditions of approval by city staff; we appreciate that. We appreciate the City's responsiveness to our concerns as well as keeping us in the loop as this issue progresses. We also appreciate the quick turn-around on the work by the traffic engineer. All of this has come together quickly and we appreciate every one's hard work. We also recognize the withdrawal of the proposed use of SE Troutdale Road for the vehicle queuing area but we don't necessarily support going back to the original proposal to have somewhat of an ambiguous half-hour time where parents pick up their children, just because of the predictability, implementation and enforceability of that particular condition. At this time we are certainly willing to look at ways to meet both the needs of this Council and City staff, as well as the applicant. I feel that if you do not go with a condition that would require the staggered school start and end times, that some sort of on-going monitoring would be needed of that intersection, maybe on a quarterly basis at least through the first year of the new 6th grade. The question came up earlier, did the County provide any traffic information/counts to counter any of these arguments. Typically with land use applications it is the responsibility of the applicant to either prove or disprove the certain situation. I think that is certainly how the County approaches it and I would expect that the City would approach that in the same way. Again, monitoring is needed if you are not going to go with this demand management solution. The County feels strongly about that. In the future, if the school wants to expand further, we need to start looking at how we can accommodate traffic on SW 21st. I know the City Engineer previously stated that about 4' of additional right-of-way is available; we do feel that could provide opportunities for a left turn lane to accommodate those types of turn movements. An issue talked about at the PC hearing was the fact that the County's Capital Improvement Program talks about the restriping of SE Troutdale Road which would allow that center turn lane, two bike lanes as well as the two travel lanes. This is something that could be done relatively cheap and soon, within the next five to ten years. The County at some point needs to take a look at whether the school, or any sort of use that will impact that intersection, will need to provide a proportional share of those improvements. I think those issues need to be on the table for future conversations in relation to any expansion to the school.

Councilor Canfield asked has Multnomah County required staggered start or stop times for any other school within Multnomah County?

Ken Born replied no. It is a pretty unique solution, but it is a unique site.

Councilor Canfield asked if the County were to insist on that, what authority would the County have to do so?

Ken Born replied I am not a lawyer but I do think that if he was here I guess he would say that to the extent that this alleviates safety issues on SE Troutdale Road, that it is within our authority as the road authority over that county road to require that sort of condition. In terms of our legal standing to do so, I wouldn't want to pass judgment on that.

Councilor Canfield stated based on the traffic studies that were done in August and the traffic study we received today, do you see any evidence that there is a problem with safety at that intersection at the present time?

Ken Born replied not based on the newest information we received today alone. But I would say that the testimony of the residents went a long way in my mind in terms of establishing that there is a problem, or was a problem up until the start of this school year.

Councilor Canfield asked so which data do you think is more important, the previous school year or the current data we have today?

Ken Born replied I am not sure I understand that question.

Councilor Canfield asked we heard that the school implemented a program dividing the pick-up times into three different times. We see the data from Main Street Engineering and some additional information from our own staff which indicates to me that there is not a problem any more. Which data is more important, the current data or the data before the school made this change in the pick-up times?

Ken Born replied I think we always want to take a look at what the present conditions are. Again, we haven't had a lot of time to digest the information that we just received a few hours ago in terms of the updated traffic counts. I think it is good information. What we have been reacting on, in terms of this entire appeal process, was the testimony that was provided at the PC hearing by the neighbors and that is what we based our whole appeal on.

Brian Vincent, Multnomah County Engineer, stated I think there was testimony given earlier that these measures are voluntary at present and we are getting excellent compliance and the numbers look very promising. There is no guarantee that the voluntary compliance will continue. So I think you have to look at both the pre and the post corrections that they have applied. To answer your question, they are both important. With all due respect, they could slide backwards.

Councilor Canfield stated fair enough. I agree with you. In my personal opinion, the County was correct in appealing the PC decision to allow queuing on Troutdale Road and the right-in/right-out, I don't think the City had the authority to do that; it is a County Road. You mentioned that the County could look at restriping the road, perhaps implementing some of the improvements you talked about. You mentioned that those might take place in five to ten years, is that correct.

Brian Vincent stated five to ten years is quite a long timeframe. As with any jurisdiction lately the financial picture is gloomy, so I will stop short of giving you a firm date. As Mr. Born mentioned it is a relatively easy project.

Councilor Canfield stated you received the traffic study from Main Street Engineering today and you haven't had much time to analyze it. Do you have any reason to not believe the information contained in the report?

Ken Born replied no. He is a registered traffic engineer and I trust his professional judgment.

Councilor Kyle asked are there currently "no parking" signs along Troutdale Road north and west of the intersection at 21st Street?

Ken Born replied no there are not.

Councilor Kyle asked are you aware of any pedestrian, bike or auto accidents as a result of this school traffic?

Ken Born replied no I am not.

Councilor Kyle asked since school started have you had any of the neighbors complain to the County regarding traffic being out of control or a problem at the school?

Ken Born replied no we have not. We didn't hear much about any traffic complaints throughout the existence of the school. We were first made aware of the traffic issues in mid July.

Councilor Kyle stated the PC put in verbiage that read, "The traffic impact study proposes to use the westerly shoulder of SE Troutdale Road as a vehicle queuing area". Would you have a problem with adding the verbiage allowing that queuing until such time as the County starts a reconfiguration of Troutdale Road?

Brian Vincent replied the real criteria that Mr. Born mentioned is sight distance at the northern most driveway. As it was presently written the 300' mark did not encompass appropriate sight distance. If we were going to entertain that I would ask that the applicant's traffic engineer reanalyze sight distance for that northern most driveway.

Councilor Daoust stated to clarify a statement that you made, the staggered pick-up times is a condition of approval. The statement that they may slide back into non-compliance, there is in fact a written condition that they stagger the pick-up times.

Brian Vincent replied I understood the comment to be in the morning that there was an extended drop-off period, not staggered. Did I get that wrong?

Councilor Daoust stated no, that is correct in the morning. Since queuing is not allowed, and since the equitable distribution of trips is improving, the only thing that I am picking up as an issue is monitoring.

Ken Born stated I think it is a great idea for the applicant to check in with the City and the County on either a monthly or quarterly basis in terms of how that intersection is functioning. If we don't have staggered start and stop times for classes, I think that is an alternative condition of approval that we would fight strongly for.

Councilor Daoust asked who would you suggest to monitor the intersection?

Ken Born replied it would be a traffic engineer hired by the applicant.

Councilor Daoust stated they have already done some monitoring, correct?

Ken Born replied that is correct.

Councilor Daoust asked so you are looking for something more than what they have submitted.

Ken Born replied it would be ongoing monitoring at least until we can come to a conclusion that this situation has been alleviated by improvements to on-site traffic management. I think it would be a little premature to jump to too many conclusions after just a couple weeks of the school year. I think it is important to do our diligence in terms of following up on the situation and that could only be done through ongoing monitoring.

Councilor Kight asked are you talking about monitoring for a 30-day period, six month period or a twelve month period?

Ken Born replied I would leave the specifics up to this Council. I think we would be open to how exactly that is gone about. I think on a monthly basis for both the AM and PM peaks their traffic engineer could provide us with that information so we can verify that the intersection is functioning appropriately. I don't think that is a terrible burden on the applicant.

Councilor Kight stated I think Mr. Vincent made an appropriate comment that we are in a period of fiscal restraint to say the least. Do you have other situations where you require someone to do traffic monitoring on an ongoing basis?

Ken Born replied not currently. There are environmental land use permits that the County issues that have ongoing monitoring requirements. It is not a new concept. It is required of any land use that generates traffic that potentially can negatively impact both the local and regional system.

Brian Vincent stated I think it needs to be understood that we are trying to work with the applicant; we are very supportive of this. Given a different circumstance we may have just

levied the requirement outright. We are trying to negotiate if you will, and giving them the opportunity to continue to review this is an attempt to that.

Councilor Kight asked have either one of you done a field study; have you went out there and observed what is going on at this intersection?

Ken Born replied during the AM/PM peak hours, no.

Councilor Kight stated so what is driving your comments is the data the school has provided and secondly the complaints from the neighbors. Would that be an accurate statement?

Ken Born stated in addition to the safety concerns that we had related to the buildout of SE Troutdale Road, which at this point simply involves restriping the road to provide a center turn lane and bike lanes, we couldn't support a mitigation measure that couldn't be implemented long-term. What would happen when we do that restriping and the queuing area went away; what would happen then? I think that was our concern with the queuing area. We did object to the turn movement restrictions placed on SW 21st by the PC because we felt that would have unintended consequences.

Councilor Kight stated that has gone away though.

Ken Born replied yes, I am just trying to recap what our appeal issues were.

Councilor Kight asked have you read the draft conditions prepared by city staff?

Ken Born replied yes. It sounds like there were some suggested revisions that came up this evening. I think we have largely supported them, but we support a more defined staggered school schedule. But if that is not going to occur, if the Council doesn't support that, we can live with that. It is just a matter of getting some sort of ongoing follow-up by the schools traffic engineer.

Councilor Kight stated in order to briefly recap, what changes would the County like to see? I think I heard one of them, which is you want staggered times in the morning as well as the afternoon. So that is one of your objections, correct?

Ken Born replied that is correct, and that is based on the testimony from the neighbors.

Councilor Kight asked what is your second objection?

Ken Born replied if you want to go into the conditions themselves I can certainly talk about the Council's Finding of Fact and Final Order that is dated October 7th with the conditions of approval starting on page 9. In a perfect world Condition #2 would stay in place without any changes. It is our understanding that the City staff has now proposed changes to this particular condition. The last sentence where it reads, "The City must concur with the plan", we would like an opportunity to weigh in on that plan, so we would suggest changing that to read, "The City and County must concur with the plan...". Condition #4, the posting of turn

restrictions on SW 21st is not necessarily a County Transportation Standard, so we would ask that the first part of the sentence up to the comma be deleted. If Condition #2 is going to be revised to be consistent with what is shown on Slide #20, I think we would want a separate condition that would require either monthly or quarterly monitoring reports on the traffic conditions at that intersection at SW 21st and Troutdale Road.

Councilor Ripma asked is it the County's position that in order to comply with the IGA we have with the County, we have to do what you are suggesting?

Ken Born replied no. We are here today in good faith to come to a solution that works for all parties.

Councilor Thomas asked with all of the intersections that Multnomah County has to monitor, there are other schools that come off of dead end streets that may not be county streets, who monitors those? With all of the other intersections that come into a county collector street, and there are tons of them with problems, who monitors those?

Ken Born replied I can't think of another example of a school that is on a dead end street...

Councilor Thomas interrupted and stated I didn't ask for another example. You are singling out one because of this issue, my question to you is of all of the intersections that the County has, who monitors all of those intersections that have problems?

Ken Born replied we do require monitoring in terms of new applications in the context of a traffic study. Whether we require those folks to provide follow-up and additional ongoing monitoring, I can't say that for certain at this point and time, but I can follow-up with you on that. It is typical when there is a land use that is proposed that has potential to negatively impact the regional system, that we require a study which accounts for turn movements, traffic counts, consistency with level of service standard, etc.

Councilor Thomas stated the concern that I have is in regards to all of the land use applications that I have seen that deal with county roads they have always taken the traffic counts as projected from the traffic engineer and taken those and said okay we are good with those. They have never come back and asked for an applicant to spend their own money to monitor a county road or state road system. That is why I find this rather unusual because you are coming back and you are asking someone to continue to monitor the process that is really a city/county responsibility. I understand removing the condition allowing the queuing for safety reasons, so I am okay with that. I am not at all comfortable with you asking the applicant to monitor this when they don't necessarily have the skill set in their organization to know what a traffic engineer needs to do, so now they have to basically employ a traffic study person as a full-time consultant to satisfy your condition. That just does not make sense to me.

Brian Vincent stated there is an important element that I think we have glossed over. The desire to have continued monitoring is a direct result in response to dropping the morning staggered times.

Councilor Thomas stated so if we left the staggered times in we could do away with that.

Brian Vincent stated they are directly related.

Mayor Thalhofer asked is anyone here to speak to us in support of the applicant?

Frank Grande, Planning Commissioner, stated the PC held two meetings on this subject and hearing that it was going to be appealed by Multnomah County I thought maybe you might want to talk to someone who was involved with both sides. I am not necessarily for or against this; I just want to provide some clarification as to why the PC did what we did. One of the things that have been removed off the table was the right-in/right-out that was recommended by the PC. If you read the PC Condition of Approval #7 it states, "It shall be expressed to the parents and staff that a right turn ingress from Troutdale Road to SW 21st Street and a right-turn egress to Troutdale Road from SW 21st Street is preferred." We didn't mandate this; we just thought it was common sense in this situation. The point of this was to mitigate a problem that was expressed by the neighbors, but it wasn't being forced on them. I will let the lawyer tell me if the word preferred is a mandate. Not knowing when or if the County was going to do their expansion of Troutdale Road, because that was brought up to us and we asked when is that going to happen. When that happens than that queuing goes away obviously. The County used some ambiguous word saying that it isn't really legal but its not illegal. Our thinking was if it is legal to park there than it should be legal for queuing there. We just tried to apply common sense to this. Now as has been testified, apparently they don't need the queuing there. Our idea, in conjunction with the queuing in the parking lot, was that we will have them make a right turn out which means they won't be waiting to make a left turn going out and coming in, they will make a right turn so they are not out there stopped on Troutdale Road backing up traffic behind them trying to make a left turn in. Our idea was to put that out there as a preferred option, not a mandate. I don't think that the Council should just throw that out just because staff thinks it should be. It seems to me that a lot of the terms that the County uses could be applied to everything; future this and future that and we have to mitigate this and mitigate that, and all of that is true but you have to deal with the reality of what is in front of you. And what was in front of us is that the school wanted to expand, the neighbors saying that they had a problem and we were just trying to apply common sense to it. If we left the IGA out of our Findings of Fact and Final Order, excuse me, as I remember it that was not brought up to us that it had to be included to make what we did legal.

Richard Allen stated I have a daughter that goes to Arthur Academy and I just wanted to express what I have seen. She has been going to Arthur Academy since it has started and it has been a great school. I have never seen a problem on Troutdale Road during the times that I have dropped her off or picked her up. Where I have seen the problem occur is on 21st. We were queuing up and blocking 21st to where the neighbors could not get in or out and I can see why they would be frustrated. They would have to sit there and wait and slowly move their way through. There is a difference this year. This year there has been no waiting and it has run very smooth. In the morning it does not take as much time to drop a child off as it does to pick them up. In the morning time there is dead periods where you just don't

see much activity going on. I have a 9 year old daughter, I don't know what the scheduled drop off times are but I must tell you that a 9 year old is very hard to get up and get ready and out the door on time. So sometimes we are a little bit late, but I have never, in the morning, experienced a backup in the parking lot or out in the street.

Lori Phillips stated I have children going there and there is a huge difference since they moved the drop off time from 8:05am to 8:30am. I have not had any waiting or any problem. The afternoon staggered time for picking up the kids, I have no problem making my scheduled 3:15 pick up time. As a parent I don't have a problem with this because I know how great the school is. If there was a problem you could park and go in and get your children or come a little bit earlier, but there hasn't been a problem. Everyone has been more than willing to follow the direction of the parking lot. It has been working so much better. With the staggered afternoon times I haven't had to wait for someone in front of me. I just want you to know that we are more than willing to do this and comply with what they ask us to do because it is such a great school.

Jill Dorrrough stated I have three children who attend the Arthur Academy School. I will agree with the other parents, this year is a huge difference in both the dropping off in the morning and the afternoon staggered pick up times. I have never had to wait; I pull right into the parking lot let my kids out and I am out of there. It takes maybe 30 seconds to go up the road into the parking lot and back out. There is no need to stipulate staggered drop off times in the morning because with 30-minutes and the number of cars going in there it really does work itself out to be very staggered. As far as stipulating the staggered pick-up times, that has been amazing. The County suggested that it might go back to the old way, I don't think there is any way any parent would do that because it is so much better than it was last year. Nobody liked waiting. When 125 students get out at 3:00 all of those cars were there at 3:00 and now it is broken up so well that there are only a few cars at a time in the parking lot and it is great. Things are working well and there is no reason to enforce the drop off times in the morning and really no reason to enforce the right-in/right-out either. Last year there were times that it was hard to turn left onto 21st because it was backed up, there is no wait anymore.

Bob Littrell stated in the letter that the school sent they refer to the parking lot supervisor, that is me. I am not paid by the school, I am a volunteer. I have three kids that attend the school. It is a lot smoother; we just don't have the cars out on the street anymore. It is not an issue. We have the cars in the parking lot and the way that we stagger the pick-up in the afternoon, it is done alphabetically in 10-minute periods. At the beginning, starting at 2:55, there are maybe twelve cars in the lot but they are gone within 5 minutes and then it just flows. After that there are maybe eight cars in the lot at one time. In the morning the whole cycle, coming off of Troutdale Road, going up 21st, dropping off your kid(s) and going back out down to Troutdale Road is about one minute. Drop offs are so much faster than pick-ups because you don't have to wait for the child to come out of the school. I am out there every morning and afternoon and the vehicles come and we get the kids out and shuffle them around the front of the car for safety so that the parents can see that they are clear and then the parents are gone. We have a section set up for drop-offs so parents can't drop off their kids until they are in that section, which is roughly three car lengths. A lot of our parents bring more than

one child. There are generally two to five volunteers in the morning to help get the kids out of the cars. I take the parking lot seriously; I don't want anybody to get hurt. It is very controlled and it works. I haven't seen a backup out on Troutdale Road; if there is one it is just seconds not minutes and that is going to happen at any intersection you come to.

Mayor Thalhoffer asked is there anyone here to speak on behalf of the appellant?

Lisa Clayton, resident on Sunrise Circle, stated I don't know that I am for the County, but I am for the residents on Sunrise Circle. I am really glad that they are able to drop their kids off faster. I have been living here for six years and until the school located here there was never any traffic at that stop sign onto Troutdale Road. The other problem that I have is that they have people out directing traffic and stopping traffic. Who has the legal authority to allow your traffic people to stop traffic on SW 21st? Who gave them the legal authority to do that?

John Liljegren replied we probably don't have authority to stop traffic on 21st Street. I guess the alternative is to let car accidents happen there. Our people are aware, because they are out there every morning and afternoon, of which cars are for the school and which cars are neighborhood cars. I watched the other day and if they see a car and recognize that it is a neighborhood car they make every effort to let the neighborhood car pass by the school and go up to Sunrise Circle or vice-versa. I don't know where your question is headed; I am sure we don't have legal authority...

Lisa Clayton interrupted and stated you don't have legal authority. I have been stopped there several times by your little fake stop sign. Another thing is that they are violating the law; you have a little circle that goes around and there is a stop sign at the driveway, but your traffic monitor will frequently have us stop or have someone else stop and allow the person to leave the driveway without stopping, which is a violation of the law. So your traffic monitor is encouraging your parents to violate the law in that respect, because they have to stop at the driveway by the stop sign. I have almost been hit there because I am not stopping, I am going because it is a street and it is my right-of-way and I have had to stop for the traffic coming out of the driveway.

John Liljegren stated in case you are worried about whether we will have monitoring or whether there is a problem there, I think your question is answered. We don't need professionals or to pay thousands of dollars every year to have traffic engineers monitor the situation, the thirteen households who live on Sunrise Park will monitor the situation...

Lisa Clayton interrupted and stated why we should we be inconvenienced by your school?

Mayor Thalhoffer asked folks to keep this civil. Do you have anything else that you would like to speak to us about?

Lisa Clayton asked how many days and at what times was the traffic study person out there studying traffic?

John Liljegren replied since school started Mr. Christofferson has been out there twice I believe and I have been out there once in the afternoon and once in the morning.

Lisa Clayton asked who did the traffic study in August?

John Liljegren replied Chris Christofferson.

Lisa Clayton asked and what purpose would that serve?

John Liljegren replied we were required to do that by the Planning Commission. So in compliance with the Planning Commission's requirement that we conduct a traffic study, we conducted a traffic study. Please keep in mind that we were trying to get this approval so that we could add 6th Grade this fall, and we are here in October because we were not able to do that because of the objections to the traffic and the appeal by Multnomah County. We did the traffic study in August because we were trying to get this decision made before school started so that we could proceed with the 6th Grade.

Lisa Clayton stated there is no traffic in August, no one is going to school, so why would you do a traffic study at that time?

Mayor Thalhoffer reminded Ms. Clayton that she needs to testify to the Council and not ask the applicant questions.

John Liljegren stated I would like to answer that question. This question was asked before the PC also. Traffic studies are done all of the time in anticipation of a use that is about to be built. That is why you do them. So if you are about to build a Home Depot for example, you don't wait for the Home Depot to be built and fully engaged with customers before you do the traffic study, they do the traffic study ahead of time and then apply certain numbers based on what they know about Home Depot traffic and add that to the traffic study. Traffic studies are always done in anticipation of a use that is going to come later.

Lisa Clayton stated I still don't understand the traffic study in August and how many cars you add and don't add to it. You people are not addressing the people who live up in the neighborhood. Your focus seems to be on Troutdale Road and 21st and the problem has always been, at least from where I stand, the people who live up on the cul-de-sac trying to get in and out of there without being delayed by people coming in and out of your school. I like the school, you have done some wonderful improvements but I get a little irritated at having to be stopped on my way to and from going to my house.

Scott stated I live in the cul-de-sac as well. They have managed to make some improvements and things flow differently, a little better at times, but there are still some problems arising from that and I am just wondering why the study was done in August.

Mayor Thalhoffer asked would the applicant like to offer any rebuttal testimony?

Chris Christofferson stated Arthur Academy was required to hire a traffic engineer to make recommendations to improve the traffic flow. So I was hired to do a traffic study. We had some mitigation measures that we were recommending. The application came in before the school year started, so the traffic study was done in August so that they could get approval and have the 6th Grade class start in September. All of the data they had was based on traffic numbers that the school had given me and the existing traffic count that I had done in August. I did my best to estimate what traffic was going to be when school started. School started and then with the appeal it gave me the opportunity to now check my work to see if the delay at the intersection was the same as what I projected; is the parking lot flowing better and is 21st clear. I was actually able to verify that the original traffic study that I completed was accurate. That is the first time that I have ever verified my traffic study. I have many years of doing traffic studies, but I have never had a traffic study that was verified. Traffic studies are always predictions of the traffic that is going to happen when the development occurs. You are never required to go back after the development is approved a year later and verify the traffic numbers. In this case you have had the opportunity to have a traffic study and have it verified. What if it is not verified six months from now or what if it changes a year from now? So now we have went from just asking to add a 6th Grade class to now you want to eliminate all of the traffic problems on the street from all of the other classes that have already been approved. Now you've done that and what if it changes in six months or a year. The progression is really getting to the point of, I think, almost overbearing and critical of the traffic situation that has really been alleviated. I just wanted to point out that it is not normal to even have the traffic study field verified.

John Liljegen stated I have two quick points. Under Exhibit E, memorandum from the County dated August 25, 2008, page 2, item 5, where the County recommended an alternative, they weren't happy with our staggered hours proposal and they weren't happy with our circulation proposal and instead they wanted, "to alleviate existing school peak hour congestion both in the morning and afternoon, the Arthur Academy shall stagger school start and release times into three groups...". This goes beyond what we have been discussing tonight. They not only wanted to have us set up a staggered drop-off and pick-up time, they wanted to change our class schedule and have that subject to the County's review. My reaction to that was that there must be 150 to 200 public schools within Multnomah County, do they go around suggesting to Portland Public Schools that they stagger their class schedule to accommodate traffic. I think this was over-reaching by the County. We have made every effort to accommodate their concerns. I do not understand why they keep pushing on this whole idea of monitoring. Secondly, you can see with those thirteen neighbors we will not do anything that violates any rule that they don't see and tell the City about. That is your monitoring. All that anybody has to do to see if there is a problem is go stand there for 15 minutes like I did this morning. If you add up all the time of all these people tonight at this hearing and if we all split up that time we could monitor the school for the next thirty years and take less time than has been spent tonight on this hearing just by going down there and spending 15-minutes in the morning and counting traffic and if there is a problem bring it to our attention and we will solve the problem. I am a little frustrated with the County's approach.

Councilor Kight stated currently the County would like to have you monitor. Mr. Christofferson you have been a traffic engineer for period of time according to your testimony. Have you ever had a situation where you have had ongoing monitoring of a traffic study?

Chris Christofferson replied I worked at Clackamas County for twelve years reviewing traffic studies and land use traffic engineering. There was one case where Home Depot mounted a video camera to monitor a left turn lane into their site off of an arterial road because the Oregon Department of Transportation was concerned about that queuing. The video was set-up and it was forgotten about and no one reviewed it. That is the only case, in my time of reviewing traffic studies, that I am familiar with regarding monitoring. It is very difficult; staff is not there to monitor it. You would probably have to have a traffic engineer on staff to review it. It is a very staff intensive process to continually monitor something like that.

Councilor Kight stated bottom line, putting aside your experience with Clackamas County, on the private side would this be totally out of the norm?

Chris Christofferson replied yes.

Councilor Kight stated not only for you, but for the industry?

Chris Christofferson replied yes.

Councilor Kight stated one of the neighbors brought up a concern she had and we probably need to address it. She indicated that her car was being stopped and the other folks got preferential treatment and/or she was directed to stop so that people could come out of the parking lot. Is there someway that we can correct that where your folks could work cooperatively with the neighbors?

John Liljegren replied we have already tried to do that. Our policy is generally that the priority goes to the traffic on 21st Street going by or turning in. We hold up the cars coming out of the church parking lot. Sometimes you get two or three cars moving and coming out of the parking lot turning onto 21st and it would be dangerous to try and make them make a sudden stop when a car is coming up the hill slowly and can see they are being told to stop. They are trying to make that effort. We are very sensitive to the neighbors concerns and they are trying to make that effort. With all due respect, the amount of time, the delay that I saw this morning was two seconds for one car waiting to turn left. The times we are dealing with here are so tiny, with all due respect, I think it is ridiculous that we are dealing with this issue. The inconvenience to a neighbor can not be more than a few seconds at a time.

Councilor Kight stated we are trying to strike a balance here. What I am hearing from the neighbor is that she is expected to have the right-of-way and the people pulling out of a parking lot are expected to stop. What is your policy in regards to that?

John Liljegren replied we are trying to accommodate that but when in doubt isn't it better to be safe than to give her the right-of-way so that she can t-bone into a car coming out of the

parking lot and kill a child? Given a choice I would rather save the life of a child and inconvenience a neighbor five seconds.

Councilor Kight stated because the County would like to have monitoring, do you see any problem with putting back in the staggered hours in the morning?

John Liljegren replied yes, that is why we have proposed all along to not have those staggered times. We have spread out the time that parents can come and drop off their kids. By random individual selection they come at different times and they have spread out the time as the evidence is shown. There is no wait for anybody going in or coming out. We do not want to get into the complicated effort of telling people on a day that they have to be at work at a certain time and would really like to drop their kid off at 8:10; we don't want to have to tell them that they are in the 8:25 group. We can't stagger our class times because that is a monumental nightmare. All the evidence before you is that there is no problem; we have solved it. There is no evidence of a morning problem.

Councilor Kight stated what I am trying to do is move this thing off center and see if you wouldn't consider at least having the language so that the County doesn't try to press their idea of the ongoing monitoring.

John Liljegren stated I think the Council should reject what the County is proposing; it is unreasonable and over-reaching and something they have never done before and nobody to our knowledge has ever done anywhere ever before. Why put that on us. The evidence before you is this morning the longest wait anybody had was 21 seconds and that was one of our cars. The neighborhoods wait was 2 seconds. There is no problem. I object to that because I think it is ridiculous.

Councilor Ripma stated it is clear that you have alleviated a lot of the problems that occurred in prior years. The concern that we have and the neighbors are going to have is what incentives, absent some requirement, do you have to make sure that it doesn't reappear? It seems to me that you logically would have incentives to keep the neighbors happy and to not let the kind of back-up problems that occurred happen again, but I would like to hear a few words from you about why you don't think this will reappear and therefore we wouldn't need to impose monitoring.

John Liljegren stated we would rather not spend a lot of time dealing with complaining neighbors. We would rather not have neighbors drive by screaming obscenities at our parking lot attendant, which has happened. We would rather avoid that if at all possible. We have every incentive to accommodate the neighbors. Fortunately the people out there dealing with parking are more patient than I am and so they probably accommodate those kinds of issues frequently with patience and grace, and will continue to do so. We have every reason to comply with all of these conditions so that the City is not back out there getting on our case about one thing or another. I can't tell you any more than that, but it seems to me that ought to be sufficient.

Mayor Thalhoffer asked is there anyone else that would like to speak either way, for or against this applicant?

Jane McFarland, Transportation Planner with Multnomah County, stated I think the concern that I have with eliminating the staggered drop-off time really is not so much the staggered periods, but it really gets to the performance. What we have now is a strategy that is implemented by the school, which is to expand the time that people can bring their kids and they do tend to come over a broad period of time. So that is resulting in the performance that we all want to see occur. What I hate to lose here is addressing some kind of a strategy for the AM that is built into the condition so that it is something that can be revisited if performance starts to slip. If we take off "drop-off and" from this language we have really lost the ability to go back and work with the school to re-implement appropriate strategies to get that performance back on track. Eliminating the terms staggered drop-off is less an issue. Maybe we can find something else that is broader, it could be lengthen drop off time or something like that that really gets more to the performance that is built into the condition so that if performance slips we can come back; we would have something built into their land use approval that is also an incentive.

David Ross, City Attorney, stated the Troutdale Development Code says that at a de novo hearing the final rebuttal shall go to the applicant. Now that you have let someone testify after rebuttal, we should offer the applicant the opportunity for rebuttal.

John Liljegren stated I have made all of my points.

Mayor Thalhoffer closed the public hearing at 9:20 and called for a 10-minute break.

Mayor Thalhoffer reconvened the meeting at 9:30pm.

MOTION: Councilor Daoust moved that the City Council adopt the Findings of Fact and Final Order as presented in the Council Packet with the following changes to the Conditions of Approval on page 9 of the Draft Findings of Fact and Final Order: Condition #1 – no change; Condition #2 – change to read, "To alleviate existing school peak hour congestion in the afternoon, Reynolds Arthur Academy shall implement staggered pick-up times into three groups in a manner that results in an equitable distribution of vehicles at the SE Troutdale Road and SW 21st Street intersection and consistent with current operations."; Condition #3 – no changes; Condition #4 – strike the words, "To comply with Multnomah County Transportation Standards" (Condition #4 now reads, "The applicant shall not post the intersection of SW 21st Street and SE Troutdale Road with temporary or permanent signage that restricts access to either street with a right-in, right-out movement."); Condition #5 – changes to read, "To lessen traffic impacts on SW 21st Street, the applicant shall incorporate the clockwise one-way circulation plan within the parking lot during morning drop-off and afternoon pick-up periods."; Conditions #6, #7 and #8 – no changes. Seconded by Councilor Ripma.

Councilor Kight asked for clarification, Condition #3 talks about queuing on Troutdale Road, how can we have this as a condition and prohibit people from queuing when it is currently allowed for people to park on Troutdale Road?

Councilor Ripma stated neither side is objecting to this.

Councilor Daoust replied queuing is not parking.

Councilor Kight stated parking is parking whether you are in a line behind another car or sitting behind the wheel, but if neither side is objecting it is not a deal killer.

Councilor Daoust stated the things that have already been addressed are staggered drop-off times in the morning. This has already been addressed with the half-hour timeframe. Not everyone is showing up at the same time, so that has been addressed. Queuing on Troutdale Road has been addressed. Staggered pick-up times in the afternoon has been addressed. I have full confidence that the performance will not slip based on the fact that it is in the schools best interest to accommodate the neighbors that are nearby and to listen to what they have to say, which I am sure the school will do in the future. With the testimony given tonight, and the data provided tonight to myself and the Council, I don't see a problem. There is no problem, and I agree with that statement.

Councilor Ripma stated I agree with what Councilor Daoust has said. I think this is a compromise with the County. The County's appeal, I can see that they had the interest of the residence at heart and we are accepting some of what they wanted. I think all in all this is a better set of conditions of approval then before, although the PC's conditions were fine, it is just that I don't think it needed to have the right-turn in and out on 21st. It was only a suggestion anyway and the County probably rightly objected to it as possibly causing u-turns or other traffic patterns in other neighborhoods. The queuing issue isn't objected to by either side and it doesn't seem like it is needed any longer. The school has found a better solution, so having it in here satisfies the County and responds to their request without doing any harm. As far as the requirement for monitoring, I think it is best left out. It is a judgment call. The County said that doing it the way that we are doing it won't violate our IGA with the County and on balance it seemed like an unusual requirement in an area without a huge traffic problem now. I am also confident that if traffic problems re-emerge due to slippage by the school, the City will have other remedies that we can pursue to correct them or to try and alleviate them. To approve this as set forth here is an excellent compromise and I urge the Council to vote for it.

Councilor Canfield stated I agree with Councilors Daoust and Ripma. This is a reasonable solution to the conditions of approval. When I read the minutes from some of the previous meetings I was really disturbed that some of the residents were having problems getting through to the cul-de-sac due to queuing. I am glad to see that the school has mitigated those problems so it is not a problem any longer and I am

confident that it will not be a problem in the future. Regarding any requirement for monitoring of future traffic conditions, absent any other location having that requirement I don't think it is appropriate here. I think it would be an unreasonable burden on the school. Traffic engineers don't come cheap. I believe that the conditions of approval that are in front of us are fair and they are a compromise and I hope the rest of the Council will vote for it.

Councilor Kyle stated I am going to support this motion in hopes that the neighbors and the school can continue to work on being good neighbors and being respectful to each other.

Councilor Kight stated I am also going to support this motion for a variety of reasons. We have more and more families with children moving into the area and the chartered schools provide an alternative to the traditional school. We can tell from the folks who gave testimony tonight that the parents are deeply involved and deeply concerned that the school be successful. It is small enough that you have the engagement of the parents and I think that is critical to its success. I am hopeful that the neighbors and school can get together and work out the differences. Make the neighbors your allies. I hope that things work out between all parties concerned and that everybody is treated with respect.

Councilor Thomas stated I think that the compromise that we have come up with is very workable. I had real challenges with the ongoing monitoring not only because of the cost, but it was actually nice to see that of all of the traffic studies that I have looked at I have never seen one that was validated. It was good to see that they can be validated. I think with what the school has done internally to help alleviate the traffic has worked this year. Having the opportunity to see it over the last couple of years, it is one-hundred percent better than it was. I think this motion addresses all sides of the issue equally and fairly.

Mayor Thalsofer stated I am going to support the motion as well. I think the school and the parents have put together a plan that is really working well. Of course it is to their benefit to do that so that these problems will cease to exist. I don't think there is any reason to have any monitoring. The school, because they know that they have to be ever vigilant to make this work, will make it work. If it doesn't for some reason, then this problem can come back to the City Council and we can address it and fix it. I think the school did an excellent job of making the necessary changes and adjustments. I feel that the school has done the job that had to be done in fixing this problem and I applaud them for doing so because that saves us from having to come up with a fix. The school fixed it themselves and that is the best kind of fix. The issue with the neighbors is another one. I think that the school at all times has to be ever vigilant to the needs of the neighbors to get in and out of their neighborhoods without any unnecessary delay and I think the school has said that they monitor that and they work at it and there hasn't been an unnecessary delay. An unnecessary delay means one thing to one party and another thing to another party. The County is looking out for the general public as the County is charged with doing and so they are coming in here

with some prohibitions that they want incorporated. I am not going to go along with the monitoring idea. I don't think this has to be monitored. I think the school will monitor it themselves.

VOTE: Councilor Canfield – Yes; Councilor Kyle – Yes; Councilor Daoust – Yes; Councilor Kight – Yes; Councilor Ripma – Yes; Councilor Thomas – Yes; Mayor Thalhofer – Yes.

Motion Passed 7 – 0.

3. ADJOURNMENT:

MOTION: Councilor Thomas moved to adjourn. Seconded by Councilor Ripma. Motion passed unanimously.

Meeting adjourned at 9:57pm.

Paul Thalhofer, Mayor

Approved October 28, 2008

ATTEST:

Debbie Stickney, City Recorder